

Sixth Appellate District

San Jose, California

MONDAY, DECEMBER 3, 2007

H030031 IN RE JOHN ERNEST DANNENBERG ON HABEAS CORPUS

Filed modification of opinion with no change in the judgment. (published)

(Mihara, J., Premo, Acting P.J., McAdams, J.)

Filed December 3, 2007

H030908 FANELLI v. FANELLI

The judgment of dismissal is reversed. Appellant is awarded his costs on appeal. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed December 3, 2007

H031003 PEOPLE v. GONZALES

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed December 3, 2007

H030604 MENDOZA v. SAN JOSE UNIFIED SCHOOL DISTRICT, et al.

The judgment is affirmed. Respondents are awarded their costs on appeal. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed December 3, 2007

TUESDAY, DECEMBER 4, 2007

The following cases are submitted this date:

H030187 PEOPLE v. FICKES

H031316 PEOPLE v. MESA

H031389 PEOPLE v. ORTIZ

H031467 PEOPLE v. SUMRALL

H031059 PEOPLE v. ALANIS

H031224 PEOPLE v. DEHARO

H031216 PEOPLE v. MARTINEZ

H030978 SORISHOCHAMKI, et al. v. BAKHTIARI CORPORATION

H030673 PEOPLE v. TIMOTHY C.

H030366 PEOPLE v. NGUYEN

H030704 PEOPLE v. MILLIGAN

H031310 BELLAVIA v. CALIFORNIA MICRO DEVICES, et al.

H029907 PEOPLE v. BYNUM

H031644 PEOPLE v. HATTAN

H030994 PEOPLE v. URISTA

Sixth Appellate District

San Jose, California

Tuesday, December 4, 2007 (continued)

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Elia, J.; Duffy, J.; and Beth Miller, Deputy Clerk.

H031175 MERCURY INTERACTIVE CORPORATION v. KLEIN, et al.; THE RECORDER, et al.

Cause called and argued by Jared Lee Kopel appearing for Appellants Mercury Interactive Corporation and Klein, et al. and by Karl Olson appearing for Respondents. Cause ordered submitted.

Court is in recess until the 1:30 p.m. calendar.

H026841 SCHMIDLIN v. THE CITY OF PALO ALTO et al.

The judgment is affirmed. Plaintiff shall recover his costs on appeal. (published)

(Rushing, P.J.; I concur: McAdams, J., Dissenting opinion by Mihara, J.)

Filed December 4, 2007

H027685 SCHMIDLIN v. THE CITY OF PALO ALTO et al.

The order on attorney fees and costs is reversed with directions to reconsider plaintiff's application, together with any additional claim he may make based upon his status as prevailing party on this and the related appeal. In doing so the court is to comply with the lodestar method of fee calculation as set forth in this decision, cases cited herein, and such other pertinent authority as may come to the court's attention. Plaintiff shall recover his costs on appeal. (not published)

(Rushing, P.J.; I concur: McAdams, J., Dissenting opinion by Mihara, J.)

Filed December 4, 2007

H030912 PHILLIPS v. YAPO

The September 2006 order disqualifying appellant's counsel is affirmed (not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 4, 2007

Sixth Appellate District

San Jose, California

Tuesday, December 4, 2007 (continued)

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Bamattre-Manoukian, J.; and LaNae Brooks, Deputy Clerk.

H031013 MCKEE v. FORTE

Cause called and argued by Appellant Eugene E. Forte appearing in propria persona and by Traci Ann Kirkbride, Deputy County Counsel, appearing for Respondent. Cause ordered submitted.

H031238 MENDIOLA v. PEKIN, et al.

Cause called and argued by Phillip S. Berry appearing for Appellant and by Respondent Patrick M. Pekin appearing in propria persona. Cause ordered submitted.

H029691 SIMONI v. BATELLE, et al.

Cause called and argued by James V. Simoni appearing for Appellant and by William Keith Brewer appearing for Respondents. Cause ordered submitted.

Court is adjourned.

WEDNESDAY, DECEMBER 5, 2007

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and W. Magsaysay, Deputy Clerk.

H030492 PEOPLE v. JACKSON

Cause called and argued by Mark Greenberg appearing for Appellant and by Violet Lee, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H029860 PEOPLE v. McDANIEL

Cause called and argued by Edward Mahler appearing for Appellant and by Sharon Wooden, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H031271 BAINES, et al. v. NORMAN, et al.

Cause called and argued by Amanda Metcalf appearing for Appellants and by Dennis Howell appearing for Respondents. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Wednesday, December 5, 2007 (continued)

H030386 AMTOWER v. PHOTON DYNAMICS, INC., et al.

H030466 AMTOWER v. PHOTON DYNAMICS, INC., et al.

Cause called and argued by Andrew Chang appearing for Appellant and by Patrick Richard appearing for Respondents. Cause ordered submitted.

H030504 SARGENT v. AJLOUNY

Cause called and argued by Appellant Matt Sargent appearing in propria persona and by Respondent Edward Ajlouny appearing in propria persona. Cause ordered submitted.

Court recesses until 1:30 p.m.

H030803 PEOPLE v. HOBBS

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed December 5, 2007

H031485 PEOPLE v. CABRERA

The order revoking probation, sentencing defendant to state prison, imposing \$400 in restitution, a \$400 restitution fine, a \$165 lab fee and a \$465 drug program fee, is vacated. Probation is ordered reinstated on the original terms and conditions and terminated. The clerk of the court is ordered to prepare an abstract of judgment reflecting this outcome and to forward a certified copy to the Department of Corrections and Rehabilitation. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed December 5, 2007

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and Jossie Michel, Deputy Clerk.

H030808 PEOPLE v. LE

Cause called and argued by Kyle Gee appearing for Appellant and by John H. Deist, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H030245 PEOPLE v. LEFIEF

Cause called and argued by Elisa Rene Nadeau appearing for Appellant and by Rene Chacon, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Wednesday, December 5, 2007 (continued)

H030017 BINESH, et al. v. TRUST DEED INVESTMENTS, INC., et al.
Cause called and argued by Jeffrey P. Widman appearing for Appellants and by Andrew J. Weigel appearing for Respondents. Cause ordered submitted.

H030404 MILLER, et al. v. STATE OF CALIFORNIA
Cause called and argued by Steven Richard Rhoads appearing for Appellants and by Harry T. Gower, Deputy Attorney General, appearing for Respondent. Cause argued and submission deferred pending supplemental briefing. Court adjourns.

THURSDAY, DECEMBER 6, 2007

The following cases are submitted this date:
H030937 COUNTY OF SANTA CLARA v. SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 535, et al.; PUBLIC EMPLOYMENT RELATIONS BOARD
H030272 CITY OF SAN JOSE v. OPERATING ENGINEERS LOCAL UNION NO. 3, et al.

FRIDAY, DECEMBER 7, 2007

The following cases are submitted this date:
H031622 PEOPLE v. BOTELHO
H031371 PEOPLE v. FREEMAN
H031548 AMERIQUEST MORTGAGE COMPANY, et al. v. FERREIRA, et al.
H031277 AMERIQUEST MORTGAGE COMPANY, et al. v. FERREIRA, et al.

H028942 MORTON v. WAGNER
(Filed modification of opinion with no change in the judgment.) Respondent's petition for rehearing is denied. (published)
(Rushing, P.J., We concur: Premo, J., Elia, J.)
Filed December 7, 2007

H031204 PEOPLE v. WILSON
The judgment is modified as follows: the two-year terms for counts 2 and 5 are hereby stayed pursuant to Penal Code section 654. As modified, the judgment is affirmed. (not published) (Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed December 7, 2007